

In re: GOLDSTONE'S PRODUCE, INC.
PACA Docket No. D-00-0001.
Decision Without Hearing by Reason of Default.
Filed July 12, 2001.

Eric Paul, for Complainant.
Respondent, Pro se.

Decision issued by Dorothea A. Baker, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, as amended (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the "Act," instituted by a complaint filed on October 7, 1999, by the Associate Deputy Director, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period January 1998 through September 1998, Respondent purchased, received and accepted in interstate and foreign commerce, from 14 sellers, 203 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balances thereof in the total amount of \$313,419.29.

Service of the complaint in this proceeding on Respondent was initially attempted at the business address set forth in the complaint, 813 N.W. 21st Terrace, Miami, FL 33127. When service could not be made at this address, a second attempt was made on December 28, 1999, by certified mail addressed to Mr. Jorge L. Herrera, President, Goldstone's Produce, Inc., 1265 MW 22nd Street, Miami, FL 33142. This letter was returned on January 14, 2000 because the forwarding order had expired. On April 26, 2000, the complaint and transmittal letter were again re-mailed by certified mail to Mr. Jorge L. Herrera, President, Goldstone's Produce, Inc., at a third address, 13000 S.W. 197th Avenue, Miami, FL 33196. This was a forwarding address which had been obtained from the United States Postal Service, Miami, Florida. This certified mail letter was returned "unclaimed" on May 18, 2000. Accordingly, on June 8, 2000, service was made by regular mail sent to the same address in conformity with Section 1.147 of the Rules of Practice (7 C.F.R. § 1.147). The time for filing an answer admitting, denying, or explaining each of the allegations of the complaint in accordance with Section 1.136 of the Rules of Practice (7 C.F.R. § 1.136) having run, and upon the motion of the Complainant for issuance of the Default Order, the following Decision and Order is issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Goldstone's Produce, Inc. is a corporation organized and

existing under the laws of the State of Florida. Its business mailing address was 831 N.W. 21st Terrace, Miami, FL 33127.

2. At all times material herein, Respondent was licensed under the provisions of PACA. License number 930646 was issued to Respondent on February 10, 1993. This license was suspended on June 25, 1998, pursuant to Section 7(d) of the PACA (7 U.S.C. § 499g), for failure to pay a reparation order and subsequently terminated on February 10, 1999, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph III of the complaint, during the period January 1998 through September 1998, Respondent purchased, received and accepted from 14 sellers in interstate and foreign commerce, 203 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$313,419.29.

Conclusions

Respondent's failure to make full payment promptly with respect to the 203 transactions set forth in Finding of Fact No. 3 above, constitutes willful, repeated and flagrant violations of section 2 of the Act (7 U.S.C. § 499b), for which the Order below is issued.

Order

A finding be made that Respondent Goldstone's Produce, Inc. has committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)).

This Order shall take effect on the 11th day after the Decision becomes final. Pursuant to the Rules of Practice governing proceedings under the Act, this Decision will become final without further proceeding 35 days after service unless appealed to the Secretary by a party to the proceeding within 30 days after service, as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies of this Order shall be served upon the parties.

[This Decision and Order became effective October 14, 2001. - Editor]
